



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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August 28, 1974

The Honorable Cue D. Boykin
Chairman, Texas Industrial
Accident Board
P.O. Box 12757, Capitol Station
Austin, Texas 78711

Opinion No. H- 385

Re: Deposit of the Second
Injury Fund in interest
bearing accounts.

Dear Mr. Boykin:

You have asked whether the Second Injury Fund should be deposited by the State Treasurer in an interest bearing account.

The Second Injury Fund is a part of the workmen's compensation system and is governed by Article 8306, Sec. 12c-2, V. T. C.S., which provides:

The special fund known as the 'Second Injury Fund' shall be created in the following manner:

(a) In every case of the death of an employee under this Act where there is no person entitled to compensation surviving said employee, the association shall pay to the Industrial Accident Board the full death benefits, but not to exceed 360 weeks of compensation, as provided in Section 8, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, to be deposited with the Treasurer of the State for the benefit of said Fund and the Board shall direct the distribution thereof.

(b) When the total amount of all such payments into the Fund, together with the accumulated interest thereon, equals or exceeds Two Hundred Fifty Thousand Dollars (\$250,000) in excess of existing liabilities, no further payments shall be required to be paid to said Fund; but whenever thereafter the amount of such Fund shall be reduced below One Hundred Twenty-Five Thousand Dollars (\$125,000) by reason

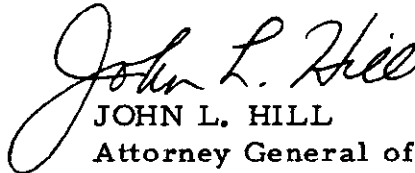
of payments from such Fund, the payments to such Fund shall be resumed forthwith, and shall continue until such Fund again amounts to Two Hundred Fifty Thousand Dollars (\$250,000) including accumulated interest thereon. (Emphasis added)

There is ample statutory authority permitting the deposit of some State funds in interest bearing accounts. Articles 2525, 2534, V. T. C. S.; Lawson v. Baker, 220 S. W. 260 (Tex. Civ. App., Austin 1920, writ ref'd.); Attorney General Opinions M-468 (1969), M-203 (1968). As the statute creating the Second Injury Fund specifically refers to the accumulated interest on the payments into the fund, we believe deposit of all or part of the fund in interest bearing accounts is clearly contemplated. Therefore, we answer your question in the affirmative.


S U M M A R Y

The Workmen's Compensation Second Injury Fund may be deposited in an interest bearing account.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee